

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Contempt Petition no. 192 of 2005

Office Notes, Office Court or Judge's Order
Memorandum of Coram
appearance, Court's
Orders & Directors
and Registrar's Order

Mr. Nitin P Deshpande for petitioner
Mr. Birendra Sraf with Durgesh
Khanapurkar for M/s Prakash & Co for
respondents

CORAM; A.M.KHANWILKAR J.

DATED 7.3.2006

P.C. . Heard learned counsel for the parties. Perused the pleadings. The grievance of the petitioner that the respondents have willfully breached the order of injunction passed by this court on 23.3.2005 is unacceptable. Although it is not possible to fully accept the stand taken by the respondents that the communication received by the respondents in the form of telegram, it was not possible to discern as to whether the High Court has stayed the inquiry pending against the petitioner. For, the

telegram clearly mentions writ
petition number and reads as follows:

" The High Court restraining the
inquiry against Shri Sainath M
Pradhan"

. On receipt of the said telegram the
respondents were expected to go slow
in the matter of inquiry and ascertain
that there was no injunction operating
against them, if they were not very
clear about the contents of the
telegram. That explanation does not
appeal to me. However, the facts
stated on affidavit by the respondents
that telegram was received on
23.3.2005 at around 5.30 p.m.in para
(r) of the reply filed and further by
the time telegram was received the
departmental inquiry was already
completed, as mentioned in para (s) of
the reply affidavit.Both these facts
have remained unchallenged. From the
zerox copy of the telegram produced at
page 44 Annexure I to the affidavit of
Rajesh Himatlal it is seen that the

receipt time by the local post office is noted as 14.54 hours. It is obvious that it is only thereafter the telegram must have been delivered to the respondents. In the circumstances there is no reason to doubt the correctness of the statement made on affidavit which has remained uncontroverted that the telegram was received at 5.30 p.m. and by which time inquiry was completed. Viewed in this perspective this is not a case for initiating contempt cation against the respondents as it is not willful disobedience of the order of this court. Petition is disposed of. All questions on merits of the contentions arising in the writ petition are left open to be decided at the final hearing of the petition.